

- [California Codes](#)
 - [California Food and Agricultural Code](#)
 - **FOOD AND AGRICULTURAL CODE SECTION 80001-80006**

80001. This division shall be known and may be cited as the California Desert Native Plants Act.

80002. It is the intent of the Legislature, in this division, to protect California desert native plants from unlawful harvesting on both public and privately owned lands. It is also the intent of the Legislature to provide the people of this state with the information necessary to legally harvest native plants so as to ultimately transplant those plants with the greatest possible chance of survival. It is the further intent of the Legislature to encourage public participation in implementing the safeguards established by this division and in evaluating the effectiveness and desirability of the safeguards.

80003. This division is applicable only within the boundaries of the Counties of Imperial, Inyo, Kern, Los Angeles, Mono, Riverside, San Bernardino, and San Diego. The director may thereafter revise the boundaries of the areas of the state which shall be subject to this division after a public hearing required to be held pursuant to Section 80074 and upon receipt of a resolution approving the change of boundaries by the board of supervisors of the affected county.

80004. Persons engaged in the production, storage, sale, delivery, or transportation of nursery stock pursuant to Part 3 (commencing with Section 6701) of Division 4 are not required to obtain a permit pursuant to this division, unless those activities involve the harvesting of native plants growing in a wild, uncultivated state.

80005. Persons engaged in the production, storage, sale, delivery, or transportation of nursery stock pursuant to Part 3 (commencing with Section 6701) of Division 4 shall not receive any harvested native plants, unless each plant has securely and properly attached thereto a valid native plant tag and seal.

80006. Persons engaged in the sale of nursery stock pursuant to Part 3 (commencing with Section 6701) of Division 4 shall maintain records of their receipts or purchases for sale or resale of any native plant. The records shall include the name and address of the person selling or delivering the plants and shall be subject to inspection by the commissioner or the director.

80051. Unless the context otherwise requires, the definitions of this chapter govern the construction of this division.

80052. "Landowner" includes the public agency administering any public lands within the areas subject to this division.

80053. "Harvest" means to remove or cut and remove from the place where grown.

80054. "Harvester" means a person who harvests a native plant.

80055. "Director" means the Director of Food and Agriculture.

80056. "Department" means the Department of Food and Agriculture.

80057. "Tag" means a paper or cloth label that can be attached to a native plant or a commercial load by means of a string and a seal, which tag specifies, among other things, a serial number, type of plant, fee required, location of origin, date of removal, witnessing authority, applicant, destination, and proposed use, including, but not limited to, commercial processing or landscaping.

80058. "Seal" means a metal, tamperproof clamp used to permanently affix the tag to a native plant.

80059. "Resale" means native plants harvested, possessed, or transported with the intent to sell the plants for the ultimate purpose of landscaping or decoration, or both.

80060. "Resale load" means native plants harvested, possessed, or transported for resale purposes.

80061. "Native plant" means any tree, shrub, bulb, or plant or part thereof, except its fruit, named in this division as being subject to this division or added by the director pursuant to Section 80074, which is growing wild. "Native plant" includes any part of any tree of the following species, whether living or dead:

- (a) *Olneya tesota* (desert ironwood).
- (b) All species of the genus *Prosopis* (mesquites).
- (c) All species of the genus *Cercidium* (palos verdes).

80062. "Commercial harvesting" means harvesting native plants for an ultimate use other than as landscaping or decorative material and with the plants' tops or branches, or both, boughs, or limbs removed.

80063. "Permit" means an application form to harvest native plants that has been filled out by the applicant and approved and officially endorsed by the commissioner or sheriff of the county wherein the native plants covered by the application are located.

80064. "Wood receipt" means a receipt that is to accompany one or more cords of wood harvested under this division. The wood receipt shall contain information which specifies, among other things, a serial number, species of wood, fee required, location of origin, date of removal, witnessing authority, applicant, destination, and proposed use, including, but not limited to, commercial processing landscaping.

80071. The botanical names of the plants referred to in this chapter shall, in all cases, govern in the interpretation of this division.

80072. The following native plants, or any parts thereof, may not be harvested except for scientific or educational purposes under a permit issued by the commissioner of the county in which the native plants are growing:

- (a) All species of *Burseraceae* family (elephant tree).

- (b) *Carnegiea gigantea* (sahuaro cactus).
- (c) *Ferocactus acanthodes* (barrel cactus).
- (d) *Castela emoryi* (crucifixion thorn).
- (e) *Dudleya saxosa* (panamint dudleya).
- (f) *Pinus longaeva* (bristlecone pine).
- (g) *Washingtonia filifera* (fan palm).

80073. The following native plants, or any part thereof, may not be harvested except under a permit issued by the commissioner or the sheriff of the county in which the native plants are growing:

- (a) All species of the family Agavaceae (century plants, nolinias, yuccas).
- (b) All species of the family Cactaceae (cacti), except for the plants listed in subdivisions (b) and (c) of Section 80072 which may be harvested under a permit obtained pursuant to that section.
- (c) All species of the family Fouquieriaceae (ocotillo, candlewood).
- (d) All species of the genus *Prosopis* (mesquites).
- (e) All species of the genus *Cercidium* (palos verdes).
- (f) *Acacia greggii* (catclaw).
- (g) *Atriplex hymenelytra* (desert-holly).
- (h) *Dalea spinosa* (smoke tree).
- (i) *Olneya tesota* (desert ironwood), including both dead and live desert ironwood.

The fruit from the native plants listed in this section may be harvested without a permit.

The commissioner may establish limits on the quantity of desert ironwood which may be taken under any permit and on the number of permits for the taking of desert ironwood which may be issued. The commissioner may adopt such rules and regulations as may be necessary for the protection of the ironwood resource.

Notwithstanding the foregoing provisions of this section, the director may add desert ironwood to, or remove it from, the jurisdiction of this division pursuant to Section 80074.

80074. After consultation with the Secretary of the Resources Agency and after a public hearing, the secretary may add to, or remove from, the jurisdiction of this division a native plant. A public hearing on native plants may be held at least once every 24 months in a county subject to this division and in a location that is convenient to a large segment of the public.

In deciding whether to call a public hearing, the secretary may consider a request from a public or private group, including concerned citizens, and the secretary shall convene such a hearing when requested by resolution of any county board of supervisors. The secretary may consider at the hearing which plants are in need of protection and whether the boundaries of the area to be protected should be changed pursuant to Section 80003.

80075. Any native plant that is declared to be a rare, endangered, or threatened species by federal or state law or regulations, including, but not limited to, the Fish and Game Code, is exempt from this division.

80101. (a) The commissioner or the sheriff of a county subject to this division shall issue, in accordance with this division, permits, wood receipts, tags, and seals for a fee as prescribed by the board of supervisors of the county where the native plants are located.

- (b) The fee shall not be less than one dollar (\$1) per plant for

all native plants, except as follows:

(1) For *Yucca brevifolia* (Joshua tree), not less than two dollars (\$2) per plant.

(2) For trees, live or dead, mesquite, palo verde, or ironwood species of trees, cut or removed for wood, as provided in Section 80103, not less than one dollar (\$1) per cord.

(3) For *Yucca Schidigera* used for commercial harvesting, not less than three dollars (\$3) per ton.

(c) The fees shall cover the cost of issuing a permit and may cover other related costs, including, but not limited to, administration, enforcement, and research costs. The permit shall specify, among other things, the species of native plants which may be harvested, the area from which plants may be harvested, and the manner in which plants may be harvested.

(d) No person, except as provided in this division, shall harvest, transport, offer for sale, or have in his or her possession any native plant, unless, at the time of harvesting, he or she has a valid permit or valid wood receipt therefor on his or her person, attaches the required tags and seals to the native plants, and exhibits the permit, wood receipt, and tags and seals upon request for inspection by any duly authorized agent of the commissioner or any peace officer as provided in this division. No wood receipt or tag and seal is valid unless it is issued with a valid permit and the permit bears the tag number or wood receipt number on its face.

(e) Native plants which have been tagged and sealed, as provided in this section, may be transported under a California nursery stock certificate or a shipping permit.

80102. (a) Each permit authorizing the harvesting, transporting, or possessing of native plants, except trees cut or removed for wood as provided in Section 80103, shall be accompanied by a sufficient number of tags and seals. The permittee or his or her agent shall attach the tags and seals to the native plants at the time of harvesting and before transporting in such manner as prescribed by the commissioner of the county in which the native plants are located. After any native plant has been legally harvested and tagged or sealed as provided in this division, it is unlawful to remove the tag or seal until the plant has been transplanted into its ultimate site for landscaping or decoration. The tag or seal may be removed from the plant only by the commissioner or the ultimate owner of the plant, who shall retain the tag or seal as proof of ownership.

(b) No permit or tag or seal is transferable by the permittee or his or her agent, nor shall it be used by anyone except that person to whom the permit or tag or seal was issued, and no refunds shall be made for the purchase thereof.

(c) Every permittee is responsible for the acts of any other person or persons acting under any authority, express or implied, of the permittee.

80103. (a) Each permit authorizing the harvesting, transporting, or possessing of live or dead mesquite, palo verde, or ironwood species of trees which are harvested for wood, shall be accompanied by a wood receipt. Any required wood receipt shall be in the possession of the person harvesting, transporting, or possessing the wood.

(b) No permit or wood receipt is transferable by the permittee or his or her agent, nor shall it be used by anyone other than the person to whom the permit or wood receipt was issued or his or her

agent or employee, except that the wood receipt shall be transferred by the permittee or his or her agent or employee to the purchaser of the wood covered by the receipt as proof of ownership.

80104. Any person in possession of a valid permit for the removal of dead plants or wood issued by the United States Forest Service, the National Park Service, or the Bureau of Land Management, or any person in compliance with appropriate federal regulations and policies allowing the removal of dead plants or wood from lands administered by the Bureau of Land Management, is not required to obtain a permit pursuant to this division for the removal or possession of those dead plants or wood.

80105. The director may adopt necessary rules and regulations not in conflict with this division for the enforcement of its provisions.

80106. The director or any of his or her duly authorized agents, any commissioner, or any peace officer is authorized and directed to enter in or upon any premises or other place, train, vehicle, or other means of transportation within or entering the state, which is suspected of containing or having present therein or thereon native plants in violation of this division, in order to examine permits and wood receipts and observe tags and seals.

80107. When any power or authority is given by any provision of this division to any person, it may be exercised by any deputy, inspector, or agent duly authorized by that person. Any person in whom the enforcement of any provision of this division is vested has the power of a peace officer as to that enforcement, which shall include state or federal agencies with which cooperative agreements have been made by the department to enforce any provision of this division.

80108. Any county may adopt ordinances not in conflict with this division for the preservation of native plants specified in Sections 80072 and 80073.

80111. (a) Except as provided in this division, it is unlawful for any person to destroy, dig up, mutilate, or harvest any living native plant, or the living or dead parts of any native plant, except its fruit, without obtaining written permission from the landowner and a permit and any required wood receipts or tags and seals.

(b) It is unlawful for any person to falsify any paper or document issued to give permission for any person to harvest a native plant specified in Section 80073, or to fail to comply with all of the conditions or stipulations of the permit.

80112. The commissioner of the county wherein the plants are located may issue a permit to a scientific or educational institution to harvest a definite number of plants listed in Section 80072 for scientific or educational purposes, if permission is obtained from the landowner on whose property the plants are located.

80113. Permits issued for the removal of native plants shall be valid only for a stated period of time to allow the permittee to remove the specific amount of plants or wood stated in the permit, or

the period of time stated by the landowner as part of the landowner's permission, whichever is shorter, but in no case for more than one year.

It is the intent of the Legislature that each permit or wood receipt shall be valid for the least period of time possible in which to accomplish the authorized purpose.

80114. No person shall knowingly make any false statement on any application for permits, wood receipts, or tags and seals. The application shall contain all of the following information:

- (a) The name, address, and telephone number of the applicant.
- (b) The amount and species of native plants to be transported.
- (c) The name of the county from which the native plants are to be removed.
- (d) A description sufficient to identify the real property from which the native plants are to be removed, and such other information or documents as the issuing agency may require to identify the general boundaries of the property.
- (e) The name, address, and telephone number of each landowner from whose property the native plants are to be removed.
- (f) The applicant's timber operator permit number, if the harvesting of the native plants is subject to the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code).
- (g) The proposed date or dates of the transportation.
- (h) The location of the office of the peace officer who will validate the tag or tags.
- (i) The destination of the native plants.
- (j) The ultimate use of the native plants, such as for use as landscaping or decorative material, or for use as a raw material in the manufacture or processing of a product.
- (k) Make, model, and license number of the transportation vehicle.
- (l) Such other information as may be required by the agency issuing the permit.

Every applicant shall, at the time of making the application, show his or her proof of ownership of the native plants. The application forms, tags, seals, and wood receipts shall be produced by the department, and distributed to the commissioner of each county subject to Section 80003.

80115. Any permit issued pursuant to Section 80111, 80112, 80113, or 80114 shall expire when the tags and seals issued therewith have been attached to the plants covered by the permit and the plants are no longer in the possession of the permittee.

80116. The director or commissioner may establish specific cutting, harvesting, and plant care criteria which shall include the most favorable and practical horticultural methods and seasons to assure the survivability of the plants and to assure compliance with existing local, state, and federal regulations.

80117. This division does not prevent any of the following:

- (a) The clearing of land for agricultural purposes, fire control measures, or required mining assessment work pursuant to federal or state mining laws.

(b) The holding of a recreational event sanctioned by the Bureau of Land Management.

(c) The clearing or removal of native plants from a canal, lateral ditch, survey line, building site, or road or other right-of-way by the landowner or his or her agent, if the native plants are not to be transported from the land or offered for sale and if the commissioner is given at least 10 days' notice of any such activity.

This division does not apply to a public agency or to a publicly or privately owned public utility when acting in the performance of its obligation to provide service to the public. This section does not prevent the landowner or his or her agent from complying with any other federal, state, or local laws or regulations.

The commissioner may exempt the use of dead and down wood for camping or branding fires from the requirements of this division.

80118. Except as provided in Section 80072, no provision of this division prohibits any person from harvesting or possessing, for purposes other than resale, five or fewer native plants or from cutting, removing, harvesting, transporting, or possessing, for purposes other than resale, any dead mesquite or palo verde in amounts less than one cord, from land owned by the person, or from land leased by the person when the landowner's written permission to harvest has been obtained and is exhibited, or from land not owned by the person when the person exhibits written permission to harvest from the landowner. The written permission shall not be valid unless it includes a description of the land satisfying the requirements of Section 80114 and the address and telephone number of the landowner.

Persons harvesting five or fewer native plants, for purposes other than resale, and persons cutting, removing, harvesting, transporting, or possessing any dead mesquite or palo verde, for purposes other than resale, in amounts less than one cord shall not be required to obtain and exhibit any permits, tags and seals, or wood receipts.

Persons possessing six or more harvested native plants shall obtain and exhibit a tag and seal for the sixth native plant and for each additional native plant in his or her possession.

80119. Each county may enact ordinances not inconsistent with this division to control commercial harvesting in that county.

80120. The issuing agency shall collect fees for the issuance of permits, tags and seals and wood receipts under this division, except from a landowner moving native plants from one of his or her properties to another, if the plants are not to be offered for sale.

80121. Any harvested native plant listed in Section 80072 or 80073, or added by the director pursuant to Section 80074, which is not exempt from the permit requirements of this division pursuant to Section 80118, found without a tag and seal securely and properly affixed thereto or for which the owner does not exhibit a tag and seal, or any mesquite or palo verde wood in the amount of one cord or more found in the possession of a person without a wood receipt, may be confiscated as evidence of a violation.

80151. No person or common carrier shall transport, or receive or possess for transportation, any native plant or any wood, or part

thereof, except its fruit or manufactured wood articles, that requires a permit, wood receipt, or tag and seal, unless the person offering the plant for shipment furnishes to the person or common carrier a valid permit therefor, and any required wood receipts, and has securely and properly attached thereto any required tag and seal. If for transportation outside of the state, the plant shall also bear a certificate of inspection by the department.

80152. All native plant species or varieties subject to this division, when not grown in California and imported into this state, shall be declared at a California agricultural inspection station or an office of the department, and proceed to destination under quarantine orders issued by agents of the department employed at the station or office. Any person transporting any plant species or varieties subject to this division from outside the state into California shall have in his or her possession a valid bill of sale for those native plants, and such permits and tags as may be required by the state of origin, and shall produce the bill of sale as well as any permits and tags for inspection by any duly authorized person as described in this division or any peace officer of the state as a requirement for entry into the state of the native plants.